

ONE HUNDRED THIRTEENTH CONGRESS
Congress of the United States
House of Representatives

COMMITTEE ON ENERGY AND COMMERCE

2125 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6115

Majority (202) 225-2927
Minority (202) 225-3641

June 3, 2014

The Honorable Kathleen Sebelius
Secretary
U.S. Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, D.C. 20201

Dear Secretary Sebelius:

Pursuant to Rules X and XI of the United States House of Representatives, the Committee on Energy and Commerce is examining funding awarded to states to build insurance exchanges under the Patient Protection and Affordable Care Act (PPACA).

While much attention has been paid to the technological challenges encountered by HealthCare.gov and the Federally Facilitated Marketplace (FFM), many exchanges built by states have encountered serious problems as well. In Massachusetts, shoppers who wanted to purchase or renew health insurance coverage with a subsidy via the state exchange were unable to do so, and hundreds of thousands of consumers were left with “temporary insurance policies” thanks to technical “glitches” and “management failures.”¹ Recent decisions by top Massachusetts officials raise serious cost, transparency and conflict of interest concerns.² State officials announced a “dual-track plan” that would involve building a new state exchange while also building the capability to shift to HealthCare.gov, should the state again fail to build a working site.³ According to Massachusetts officials, the current \$121.1 million cost estimate for the dual-track plan – which is almost twice as much as the projected cost of simply moving to the federal system – was not based on the actual cost but the “best, reasonable guesses.”⁴ Oregon’s exchange was also a disaster. Cover Oregon was so technically deficient that it was unable to enroll anyone and, thus, forced to rely entirely on paper applications. The FBI has launched an investigation;⁵ recently, federal prosecutors subpoenaed documents from the Oregon Health

¹ Sarah Kilff, *How Massachusetts screwed up Obamacare*, Vox, May 12, 2014, <http://www.vox.com/2014/5/12/5691934/how-massachusetts-screwed-up-obamacare>; Martha Bebinger, *The Rising Cost of Massachusetts’ Failed Insurance Website*, WBUR, May 9, 2014, <http://commonhealth.wbur.org/2014/05/health-connector-fixes-costs>;

² *Id.*

³ *Id.*; Martha Bebinger, *The Rising Cost of Massachusetts’ Failed Insurance Website*, WBUR, May 9, 2014.

⁴ Jennifer Haberkorn and Kyle Cheney, *\$474M for 4 failed Obamacare exchanges*, Politico, May 11, 2014, <http://www.politico.com/story/2014/05/obamacare-cost-failed-exchanges-106535.html>; Gintautas Dumcius, *Mass Connector Okays \$121 Million Plan to Fix Website*, State House News Service, May 8, 2014; Kay Lazar, *New Mass. Health Website Estimated to Cost \$121 M*, The Boston Globe, May 8, 2009.

⁵ Nick Budnick, *Cover Oregon health insurance exchange fiasco spawns problems for low-income Oregonians’ health plan*, The Oregonian, March 1, 2014, http://www.oregonlive.com/health/index.ssf/2014/03/cover_oregon_health_insurance_1.html; Shelby

Authority and Cover Oregon as part of a grand jury investigation into how states used federal dollars allocated to establish Oregon's health insurance exchange. In Maryland, state officials ignored multiple warnings their exchange was critically flawed and not ready to launch.⁶ The Maryland exchange crashed on day-one⁷ and the state is now in the process of spending millions more to fix a website that may be unsalvageable.⁸ Vermont's exchange also launched with significant payment, eligibility and data security system flaws and is not fully functional.⁹

According to data from the Centers for Medicare and Medicaid Services (CMS)¹⁰, the Department of Health and Human Services (HHS) has awarded at least \$1,314,625,070 for State Based Exchanges that have failed or are so flawed that they require substantial modification.¹¹ To date, HHS has awarded at least \$746,029,921 on the four state exchanges that have been shut down in Massachusetts, Maryland, Oregon, and Nevada.¹² Numerous reports indicate that exchanges in Hawaii, Minnesota, and Vermont are also likely to be abandoned or require costly improvements. Thus far, Hawaii has received \$205,342,270 to build a state exchange.¹³ Minnesota has received \$155,020,465 and Vermont has received \$208,232,414 for the same purpose.¹⁴ Further, some states may now request additional federal taxpayer dollars to fix or build new exchanges. States that scrap their exchange and shift consumers to the FFM may request additional funds as well.

To assist in our review of the implementation of the PPACA and, in particular, the use of taxpayer dollars for the construction of state exchanges, please provide the following documents and information no later than June 18, 2014:

1. A list of the employees, departments and offices within HHS, CMS, and the Centers for Consumer Information and Insurance Oversight (CCIIO) that were responsible for the awarding of grants to the states (and District of Columbia) that established their own exchanges.

Sebens, *Federal prosecutors subpoena Oregon health agency in grand jury probe*, Reuters, May 20, 2014, http://news.yahoo.com/federal-prosecutors-subpoena-oregon-health-agency-grand-jury-013133439--sector.html;_ylt=A0LEVy7M13xThD8AZLJXNyoA;_ylu=X3oDMTB0cThzbzBxBHNiYwNzYwRjb2xvA2JmMQR2dGlkA1ZJUDQ0MV8x.

⁶ Aaron C. Davis, et al., *Maryland officials were warned for a year of problems with the online health insurance site*, The Washington Post, January 11, 2014, http://www.washingtonpost.com/local/maryland-news/maryland-officials-were-warned-for-a-year-of-problems-with-online-health-insurance-site/2014/01/11/f094ad94-6a98-11e3-8b5b-a77187b716a3_print.html.

⁷ *Id.*

⁸ *Id.*

⁹ Neal P. Goswami, *Feds to tack progress of Vt. Health Connect*, Rutland Herald, May 16, 2014, <http://www.rutlandherald.com/article/20140516/NEWS03/705169893/1004>.

¹⁰ All Establishment Grant funding data is based on grants listed on CMS' website: <http://www.cms.gov/CCIIO/Resources/Marketplace-Grants/>.

¹¹ *Health Insurance Exchange Establishment Grants*, CMS, <http://www.cms.gov/CCIIO/Resources/Marketplace-Grants/>; also see, Christopher Conover, et al., *Obamacare Exchanges Squander Taxpayer Dollars By The Boatload*, Forbes, May 12, 2014, <http://www.forbes.com/sites/theapothecary/2014/05/12/obamacare-exchanges-squander-taxpayer-dollars-by-the-boatload/>; Phil Kerpin, *Actually, Obamacare State Exchanges Have Wasted \$1.2 Billion*, The Federalist, May 12, 2014, <http://thefederalist.com/2014/05/12/actually-obamacare-state-exchanges-have-wasted-1-2-billion/>. The State Based Exchanges cost taxpayers almost \$4.2 billion to build, and additional tax dollars will be required to fix a plethora of problems. See generally, Jim Angle, *Money Pit: Officials struggling to fix state ObamaCare exchanges*, Fox News, May 1, 2014, <http://www.foxnews.com/politics/2014/05/01/money-pit-officials-struggling-to-fix-state-obamacare-exchanges/>.

¹² According to the CMS, through a series of establishment grants, Oregon received \$305,206,587, Massachusetts received \$179,036,455, Maryland received \$171,013,111 and Nevada received \$90,773,768.

¹³ *Health Insurance Exchange Establishment Grants*, CMS, <http://www.cms.gov/CCIIO/Resources/Marketplace-Grants/>.

¹⁴ *Id.*

2. A description of the process by which taxpayer dollars were awarded to each state and how the use of that taxpayer funding was supervised and/or reviewed. This includes, but is not limited to, identifying and describing any HHS policies or procedures that governed this process. If any relevant policy has been changed or modified since the award of this funding, please also provide a detailed description of the substance and timing of the change(s).
3. A list of meetings between employees or representatives of HHS, CMS, CCIIO and employees or representatives of a state exchange. This includes, but is not limited to, state administration officials and private companies or organizations responsible for performing work on a state exchange.
4. All applications or other requests for funding submitted by or on behalf of a state for the purpose of or relating to the construction of a state exchange. This includes any materials or documents submitted by or on behalf of a state in support of a request for any state exchange funding, for example, requests for Planning Grants, Early Innovator Grants, Level One and/or Level Two Establishment Grants.
5. Any reports, updates, memoranda, presentations, analyses, audits, or other documents relating or referring to the status of a state exchange including, but not limited to, any federal grants or funds for the building, operation or maintenance of a state exchange. This request includes, but is not limited to, documents prepared for and/or submitted to HHS by or on behalf of a state or contractor to HHS, as well as any communications, including e-mail, between representatives of HHS and any state or contractor.

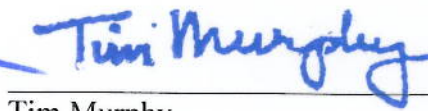
In addition to the requests above, we ask that you make the HHS, CMS, and CCIIO individuals responsible for the state exchange projects in Massachusetts, Maryland, Nevada, and Oregon available for a briefing with Committee staff no later than June 18, 2014.

Thank you for your prompt attention to this matter. If you have questions or wish to discuss this request, please contact Karen Christian or Sean Hayes with Committee Staff at (202) 225-2927.

Sincerely,



Fred Upton
Chairman



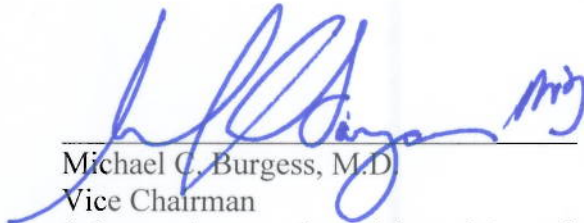
Tim Murphy
Chairman
Subcommittee on Oversight and Investigations



Joe Barton
Chairman Emeritus



Marsha Blackburn
Vice Chairman



Michael C. Burgess, M.D.
Vice Chairman
Subcommittee on Oversight and Investigations

Attachment

cc: The Honorable Henry A. Waxman, Ranking Member

The Honorable Diana DeGette, Ranking Member
Subcommittee on Oversight and Investigations